

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Chad A. MIRKIN et al.

Title: PEPTIDE AND PROTEIN ARRAYS AND
DIRECT-WRITE LITHOGRAPHIC
PRINTING OF PEPTIDES AND PROTEINS

Appl. No.: 10/788,414

International 5/21/2002
Filing Date:

371(c) Date: 03/01/2004

Examiner: Nelson C. Yang

Art Unit: 1641

Confirmation 4969
Number:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR
PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants have calculated PTA for the captioned patent application and have determined that the patent is entitled to 1451 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 1850 days

(b) Total Applicant delay: 399 days

Final PTA Determination under 37 CFR §1.703(f): 1451 days

In accordance with 1.705(b)(2)(ii), the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are clearly represented in the attached PTA Calculation.

The relevant dates where the applicant is not in agreement with the PTO's determination are discussed in more detail below.

The Patent Office has indicated that a Restriction Requirement was mailed May 4, 2006, which is calculated to be 368 days for delay of issuance of an Office Action fourteen months from the filing date. However, the Restriction Requirement mailed May 4, 2006 was vacated by the Examiner, and a new Restriction Requirement was mailed August 24, 2006. Therefore, the number of days between the filing date (March 1, 2004) and issuance of a first Office Action (August 24, 2006) is 480 days. Thus, the total PTA for the present patent should be 1451 days.

In accordance with §1.705(b)(2)(iv)(A), the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 are clearly represented in the attached PTA Calculation.

Applicants therefore respectfully request that the patent be accorded 1451 days PTA.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(e) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date Jan 28, 2011

By Tianzhen Yan #67162

FOLEY & LARDNER LLP
Customer Number: 23533
Telephone: (202) 672-5351
Facsimile: (202) 672-5399

J. Steven Rutt
Attorney for Applicant
Registration No. 40,153

Patent Term Adjustment Calculation System

[Add a new event to this case](#)

Docket Number: 083847-0235
 Application Number: 10/788414
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	03/01/2004	0		
Edit Delete	Notice to File Missing Parts	05/19/2004	79		
	Notice to File Missing Parts + 3 months	08/19/2004	171		
Edit Delete	Response to Notice to File Missing Parts	09/17/2004	200		29
	14 month From Application date	05/01/2005	426		
Edit Delete	Restriction Requirement	08/24/2006	906	480	
Edit Delete	Restriction Requirement Response Received at PTO	11/09/2006	983		
Edit Delete	Non-Final Office Action	02/07/2007	1,073		
CLOSE WINDOW	ALL CASES	SELECT CASE	03/01/2007	1,095	
	Non-Final Office Action + 3 months	05/07/2007	1,162		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	08/07/2007	1,254		92
	Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo	12/07/2007	1,376		
Edit Delete	Non-Final Office Action	01/11/2008	1,411	(35)	
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	02/07/2008	1,438		
Edit Delete	Non-Final Office Action	05/28/2008	1,549		
	Non-Final Office Action + 3 months	08/28/2008	1,641		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/26/2008	1,731		90
Edit Delete	Non-Final Office Action	02/20/2009	1,817		
	Non-Final Office Action + 3 months	05/20/2009	1,906		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	08/19/2009	1,997		91
Edit Delete	IDS under 1.704(c)(8) filed at PTO	08/28/2009	2,006		9
Edit Delete	Non-Final Office Action	11/19/2009	2,089		
	Non-Final Office Action + 3 months	02/19/2010	2,181		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	05/18/2010	2,269		88
Edit Delete	Notice of Allowance	07/22/2010	2,334		
Edit Delete	Supplemental Notice of Allowability	08/31/2010	2,374		
Edit Delete	Supplemental Notice of Allowability	09/03/2010	2,377		
Edit Delete	Issue Fee Paid	10/21/2010	2,425		

10/788,414	PEPTIDE AND PROTEIN ARRAYS AND DIRECT-WRITE LITHOGRAPHIC PRINTING OF PEPTIDES AND PROTEINS	01-11-2011::19:03:12
------------	--	----------------------

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/788,414

Filing or 371(c) Date:	03-01-2004	Overlapping Days Between {A and B} or {A and C}:	35
Issue Date of Patent:	11-30-2010	Non-Overlapping USPTO Delays:	1738
A Delays:	403	PTO Manual Adjustments:	0
B Delays:	1370	Applicant Delays:	399
C Delays:	0	Total PTA Adjustments:	1339

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
98.5	11-30-2010	PTA 36 Months	1370		0
98	11-30-2010	Patent Issue Date Used in PTA Calculation			0
97	10-26-2010	Export to Final Data Capture			0
96	10-25-2010	Dispatch to FDC			0
95	10-25-2010	Application Is Considered Ready for Issue			0
94	10-21-2010	Issue Fee Payment Verified			0
93	10-21-2010	Issue Fee Payment Received			0
92	09-10-2010	Finished Initial Data Capture			0
91	09-03-2010	Mail Miscellaneous Communication to Applicant			0
90	09-01-2010	Miscellaneous Communication to Applicant - No Action Count			0
89	08-31-2010	Mail Examiner's Amendment			0
88	08-30-2010	Examiner's Amendment Communication			0
87	08-11-2010	Receipt of all Acknowledgement Letters			0
86	07-27-2010	Export to Initial Data Capture			0
84	07-22-2010	Mail Notice of Allowance			0
83	07-19-2010	Document Verification			0
82	07-15-2010	Document Verification			0
81	07-15-2010	Notice of Allowance Data Verification Completed			0
80	07-15-2010	Case Docketed to Examiner in GAU			0
79	07-06-	Allowed Case Returned to the Examiner for Clerical			0

	2010	Processing		
78	07-06-2010	Examiner's Amendment Communication	0	
77	06-29-2010	Examiner Interview Summary Record (PTOL - 413)	0	
76	07-06-2010	Notice of Allowability	0	
75	05-22-2010	Date Forwarded to Examiner	0	
74	05-18-2010	Response after Non-Final Action	88	72
73	05-18-2010	Request for Extension of Time - Granted	0	
72	11-19-2009	Mail Non-Final Rejection	0	
71	03-20-2009	Examiner Interview Summary Record (PTOL - 413)	0	
70	11-09-2009	Non-Final Rejection	0	
69	08-28-2009	Information Disclosure Statement considered	0	
68	08-28-2009	Information Disclosure Statement (IDS) Filed	9	65
67	08-19-2009	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	0	
66	09-23-2009	Date Forwarded to Examiner	0	
65	08-19-2009	Response after Non-Final Action	91	62
64	08-19-2009	Request for Extension of Time - Granted	0	
63	08-28-2009	Information Disclosure Statement (IDS) Filed	0	
62	02-20-2009	Mail Non-Final Rejection	0	
61	02-17-2009	Non-Final Rejection	0	
60	12-06-2008	Date Forwarded to Examiner	0	
59	11-26-2008	Response after Non-Final Action	90	57
58	11-26-2008	Request for Extension of Time - Granted	0	
57	05-28-2008	Mail Non-Final Rejection	0	
56	05-27-2008	Non-Final Rejection	0	
55	03-19-2008	Date Forwarded to Examiner	0	
54	02-07-2008	Response to Election / Restriction Filed	0	
	01-11-			

53	2008	Mail Restriction Requirement	35	49
52	01-07-2008	Requirement for Restriction / Election		0
51	12-13-2007	Case Docketed to Examiner in GAU		0
50	08-09-2007	Date Forwarded to Examiner		0
49	08-07-2007	Response after Non-Final Action	92	46
48	08-07-2007	Request for Extension of Time - Granted		0
47	05-02-2007	Case Docketed to Examiner in GAU		0
46	02-07-2007	Mail Non-Final Rejection		0
45	01-22-2007	Non-Final Rejection		0
44	10-14-2005	Information Disclosure Statement considered		0
43	10-14-2005	Information Disclosure Statement considered		0
42	11-20-2006	Date Forwarded to Examiner		0
41	11-09-2006	Response to Election / Restriction Filed		0
40	11-09-2006	Request for Extension of Time - Granted		0
39	08-24-2006	Mail Supplemental Restriction / Election Requirement		0
38	08-21-2006	Supplemental Restriction		0
37	05-04-2006	Mail Restriction Requirement	368	-1
36	05-01-2006	Requirement for Restriction / Election		0
35.7	10-14-2005	Information Disclosure Statement (IDS) Filed		0
35	10-14-2005	Information Disclosure Statement (IDS) Filed		0
34	10-14-2005	Reference capture on IDS		0
33.7	10-14-2005	Information Disclosure Statement (IDS) Filed		0
33	10-14-2005	Information Disclosure Statement (IDS) Filed		0
32	10-21-2004	IFW TSS Processing by Tech Center Complete		0
31	10-21-2004	Case Docketed to Examiner in GAU		0
30	05-20-2004	Preliminary Amendment		0
	10-05-			

29	2004	Agency Referral Letter Mailed	0
28	10-05-2004	Agency Referral Letter Mailed	0
27	10-04-2004	Application Return from OIPE	0
26	10-04-2004	Application Is Now Complete	0
25	10-04-2004	Application Return TO OIPE	0
24	10-04-2004	Application Return from OIPE	0
23	10-04-2004	Application Is Now Complete	0
22	10-04-2004	Application Return TO OIPE	0
21	10-04-2004	Application Return from OIPE	0
20	10-04-2004	Application Is Now Complete	0
19	09-17-2004	Payment of additional filing fee/Preexam	29 7
18	10-04-2004	Pre-Exam Office Action Withdrawn	0
17	10-04-2004	Application Return TO OIPE	0
16	10-04-2004	Application Return from OIPE	0
15	10-04-2004	Application Return TO OIPE	0
14	10-04-2004	Application Dispatched from OIPE	0
13	10-04-2004	Application Is Now Complete	0
11	09-17-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
10	09-29-2004	Receipt of all Acknowledgement Letters	0
9	07-07-2004	Receipt of Acknowledgment Letter	0
8	05-20-2004	Workflow incoming amendment IFW	0
7	05-19-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	0
6	04-14-2004	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
5	04-14-2004	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
4	03-31-2004	Referred to Level 2 (LARS) by OIPE CSR	0
3	03-31-2004	CASE CLASSIFIED BY OIPE	0
	03-10-		

2	2004	IFW Scan & PACR Auto Security Review	0
1	03-01-2004	Initial Exam Team nn	0

[Close Window](#)